

Colorado Revised Statutes 2019

TITLE 38

PROPERTY - REAL AND PERSONAL

TENANTS AND LANDLORDS

ARTICLE 12

PART 4

VICTIMS OF UNLAWFUL SEXUAL BEHAVIOR, STALKING, DOMESTIC VIOLENCE, AND DOMESTIC ABUSE

38-12-401. Definitions. As used in this part 4, unless the context otherwise requires:

- (1) "Application assistant" has the same meaning provided in section 24-30-2103 (4).
- (2) "Domestic abuse" has the same meaning as provided in section 13-14-101 (2).
- (3) "Domestic violence" has the same meaning as provided in section 18-6-800.3 (1).
- (4) "Medical professional" means a person licensed to practice medicine pursuant to article 240 or 255 of title 12.
- (5) "Stalking" means the criminal offense described in section 18-3-602.
- (6) "Unlawful sexual behavior" means the criminal offense described in section 16-22-102 (9).

Source: **L. 2004:** Entire part added, p. 528, § 1, effective August 4. **L. 2017:** Entire part amended, (HB 17-1035), ch. 276, p. 1513, § 1, effective June 1. **L. 2019:** (4) amended, (HB 19-1172), ch. 136, p. 1722, § 229, effective October 1.

38-12-402. Protection for victims of unlawful sexual behavior, stalking, or domestic violence. (1) A landlord shall not include in a residential rental agreement or lease agreement for housing a provision authorizing the landlord to terminate the agreement or to impose a penalty on a residential tenant for calls made by the residential tenant for peace officer assistance or other emergency assistance in response to a situation involving domestic violence, domestic abuse, unlawful sexual behavior, or stalking. A residential tenant may not waive the residential tenant's right to call for police or other emergency assistance.

(2) (a) If a tenant to a residential rental agreement or lease agreement notifies the landlord in writing that he or she is the victim of unlawful sexual behavior, stalking, domestic violence, or domestic abuse and provides to the landlord evidence of unlawful sexual behavior, stalking, domestic violence, or domestic abuse victimization as described in subsection (2)(a.5) of this section, and the residential tenant seeks to vacate the premises due to fear of imminent danger for self or children because of the unlawful sexual behavior, stalking, domestic violence, or domestic abuse, then the residential tenant may terminate the residential rental agreement or

lease agreement and vacate the premises without further obligation except as otherwise provided in subsection (2)(b) of this section.

(a.5) For the purposes of subsection (2)(a) of this section:

(I) To provide evidence that he or she is a victim of unlawful sexual behavior, domestic violence, or domestic abuse, a tenant may provide to his or her landlord a police report written within the prior sixty days, a valid protection order, or a written statement from a medical professional or application assistant who has examined or consulted with the victim, which written statement confirms such fact; and

(II) To provide evidence that he or she is a victim of stalking, a tenant may provide to his or her landlord a police report written within the prior sixty days, a valid protection order, or a written statement from an application assistant who has consulted with the victim, which written statement confirms such fact.

(b) If a tenant to a residential rental agreement or lease agreement terminates the residential rental agreement or lease agreement and vacates the premises pursuant to subsection (2)(a) of this section, then the tenant is responsible for one month's rent following vacation of the premises, which amount is due and payable to the landlord within ninety days after the tenant vacates the premises. The landlord is not obligated to refund the security deposit to the tenant until the tenant has paid the one month's rent pursuant to this section. Notwithstanding the provisions of section 38-12-103, the landlord and the tenant to a residential rental agreement or lease agreement may use any amounts owed to the other to offset costs for the one month's rent or the security deposit. The provisions of this subsection (2)(b) apply only if the landlord has experienced and documented damages equal to at least one month's rent as a result of the tenant's early termination of the agreement.

(3) Nothing in this part 4 authorizes the termination of tenancy and eviction of a residential tenant solely because the residential tenant is the victim of unlawful sexual behavior, stalking, domestic violence, or domestic abuse.

(4) (a) If a tenant to a residential rental agreement or lease agreement notifies the landlord that the tenant is a victim of unlawful sexual behavior, stalking, domestic violence, or domestic abuse, the landlord shall not disclose such fact to any person except with the consent of the victim or as the landlord may be required to do so by law.

(b) If a tenant to a residential rental agreement or lease agreement terminates his or her lease pursuant to this section because he or she is a victim of unlawful sexual behavior, stalking, domestic violence, or domestic abuse, and the tenant provides the landlord with a new address, the landlord shall not disclose such address to any person except with the consent of the victim or as the landlord may be required to do so by law.

Source: L. 2004: Entire part added, p. 528, § 1, effective August 4. **L. 2005:** Entire section amended, p. 402, § 3, effective July 1. **L. 2017:** Entire part amended, (HB 17-1035), ch. 276, p. 1513, § 1, effective June 1.

PART 5

OBLIGATION TO MAINTAIN RESIDENTIAL PREMISES - UNLAWFUL REMOVAL

Law reviews: For article, "Colorado Implied Warranty of Habitability for Residential Tenancies: An Overview", see 38 Colo. Law. 59 (May 2009); for article, "Residential Tenancies, Lease to Eviction An Overview of Colorado Law", see 43 Colo. Law. 55 (May 2014); for article, "Warranty of Habitability, CRS §§ 38-12-501 et seq.", see 47 Colo. Law. 10 (Aug.-Sept. 2018).

38-12-501. Legislative declaration - matter of statewide concern - purposes and policies. (1) The general assembly hereby finds and declares that the provisions of this part 5 are a matter of statewide concern. Any local government ordinance, resolution, or other regulation that is in conflict with this part 5 shall be unenforceable.

(2) The underlying purposes and policies of this part 5 are to:

- (a) Simplify, clarify, modernize, and revise the law governing the rental of dwelling units and the rights and obligations of landlords and tenants;
- (b) Encourage landlords and tenants to maintain and improve the quality of housing; and
- (c) Make uniform the law with respect to the subject of this part 5 throughout Colorado.

Source: L. 2008: Entire part added, p. 1820, § 3, effective September 1.

38-12-502. Definitions. As used in this part 5 and part 8 of this article 12, unless the context otherwise requires:

(1) "Appliance" means a refrigerator, range stove, or oven that is included within a residential premises by a landlord for the use of the tenant pursuant to the rental agreement or any other agreement between the landlord and the tenant. Nothing in this section requires a landlord to provide any appliance, and section 38-12-505 applies to appliances solely to the extent that appliances are part of a written agreement between the landlord and the tenant or are otherwise actually provided to a tenant by the landlord at the inception of the tenant's occupancy of the residential premises.

(2) "Common areas" means the facilities and appurtenances to a residential premises, including the grounds, areas, and facilities held out for the use of tenants generally or whose use is promised to a tenant.

(3) "Dwelling unit" means a structure or the part of a structure that is used as a home, residence, or sleeping place by a tenant.

(4) "Electronic notice" means notice by electronic mail or an electronic portal or management communications system that is available to both a landlord and a tenant.

(5) "Landlord" means the owner, manager, lessor, or sublessor of a residential premises.

(6) "Mold" means microscopic organisms or fungi that can grow in damp conditions in the interior of a building.

(7) "Rental agreement" means the agreement, written or oral, embodying the terms and conditions concerning the use and occupancy of a residential premises.

(8) "Residential premises" means a dwelling unit, the structure of which the unit is a

part, and the common areas.

(9) "Tenant" means a person entitled under a rental agreement to occupy a dwelling unit to the exclusion of others.

Source: L. 2008: Entire part added, p. 1820, § 3, effective September 1. **L. 2018:** IP amended, (SB 18-010), ch. 61, p. 608, § 1, effective August 8. **L. 2019:** Entire section amended, (HB 19-1170), ch. 229, p. 2305, § 2, effective August 2.

Editor's note: Section 10 of chapter 229 (HB 19-1170), Session Laws of Colorado 2019, provides that the act changing this section applies to conduct occurring on or after August 2, 2019.

38-12-503. Warranty of habitability. (1) In every rental agreement, the landlord is deemed to warrant that the residential premises is fit for human habitation.

(2) Except as described in subsection (2.2) of this section, a landlord breaches the warranty of habitability set forth in subsection (1) of this section if:

(a) A residential premises is:

(I) Uninhabitable as described in section 38-12-505 or otherwise unfit for human habitation; or

(II) In a condition that materially interferes with the tenant's life, health, or safety; and

(b) The landlord has received reasonably complete written or electronic notice of the condition described in subsection (2)(a) of this section and failed to commence remedial action by employing reasonable efforts within the following period after receiving the notice:

(I) Twenty-four hours, where the condition is as described in subsection (2)(a)(II) of this section; or

(II) Ninety-six hours, where the condition is as described in subsection (2)(a)(I) of this section and the tenant has included with the notice permission to the landlord or to the landlord's authorized agent to enter the residential premises.

(2.2) In a case in which a residential premises has mold that is associated with dampness, or there is any other condition causing the residential premises to be damp, which condition, if not remedied, would materially interfere with the life, health, or safety of a tenant, a landlord breaches the warranty of habitability if the landlord fails:

(a) Within ninety-six hours after receiving reasonably complete written or electronic notice of the condition, to mitigate immediate risk from mold by installing a containment, stopping active sources of water to the mold, and installing a high-efficiency particulate air filtration device to reduce tenants' exposure to mold;

(b) To maintain the containment described in subsection (2.2)(a) of this section until the actions described in subsection (2.2)(c) of this section are executed; and

(c) Within a reasonable amount of time, to execute the following remedial actions to remove the health risk posed by mold:

(I) Establish appropriate protections for workers and occupants;

(II) Eliminate or limit moisture sources and dry all materials;

(III) Decontaminate or remove damaged materials as appropriate;
(IV) Evaluate whether the premises has been successfully remediated; and
(V) Reassemble the premises to control sources of moisture and nutrients and thereby prevent or limit the recurrence of mold.

(2.3) A tenant who gives a landlord electronic notice of a condition shall send such notice only to the e-mail address, phone number, or electronic portal specified by the landlord in the rental agreement for communications. In the absence of such a provision in the rental agreement, the tenant shall communicate with the landlord in a manner that the landlord has previously used to communicate with the tenant. The tenant shall retain sufficient proof of delivery of the electronic notice.

(2.5) A landlord who receives from a tenant written or electronic notice of a condition described by subsection (2)(a) of this section shall respond to the tenant not more than twenty-four hours after receiving the notice. The response must indicate the landlord's intentions for remedying the condition, including an estimate of when the remediation will commence and when it will be completed.

(3) When any condition described in subsection (2) of this section is caused by the misconduct of the tenant, a member of the tenant's household, a guest or invitee of the tenant, or a person under the tenant's direction or control, the condition does not constitute a breach of the warranty of habitability. It is not misconduct by a victim of domestic violence; domestic abuse; unlawful sexual behavior, as described in section 16-22-102 (9); or stalking under this subsection (3) if the condition is the result of domestic violence; domestic abuse; unlawful sexual behavior, as described in section 16-22-102 (9); or stalking and the landlord has been given written or electronic notice and evidence of domestic violence; domestic abuse; unlawful sexual behavior, as described in section 16-22-102 (9); or stalking, as described in section 38-12-402 (2)(a).

(4) (a) If the notice sent pursuant to subsection (2)(b) of this section concerns a condition that is described by subsection (2)(a)(II) of this section, the landlord, at the request of the tenant, shall provide the tenant:

(I) A comparable dwelling unit, as selected by the landlord, at no expense or cost to the tenant; or

(II) A hotel room, as selected by the landlord, at no expense or cost to the tenant.

(b) A landlord is not required to pay for any other expenses of a tenant that arise after the relocation period. A tenant continues to be responsible for payment of rent under the rental agreement during the period of any temporary relocation and for the remainder of the term of the rental agreement following the remediation.

(5) Except as set forth in this part 5, any agreement waiving or modifying the warranty of habitability shall be void as contrary to public policy.

(6) Nothing in this part 5 shall:

(a) Prevent a landlord from terminating a rental agreement as a result of a casualty or catastrophe to the dwelling unit without further liability to the landlord or tenant; or

(b) Preclude a landlord from initiating an action for nonpayment of rent, breach of the rental agreement, violation of section 38-12-504, or as provided for under article 40 of title 13, C.R.S.

Source: L. 2008: Entire part added, p. 1821, § 3, effective September 1. **L. 2017:** (3) amended, (HB 17-1035), ch. 276, p. 1515, § 2, effective June 1. **L. 2019:** (2), (3), and (4) amended and (2.2), (2.3), and (2.5) added, (HB 19-1170), ch. 229, p. 2306, § 3, effective August 2.

Editor's note: Section 10 of chapter 229 (HB 19-1170), Session Laws of Colorado 2019, provides that the act changing this section applies to conduct occurring on or after August 2, 2019.